

S.B. Civil Writ Petition No. 182/2004
(Langar Beedi Company, Poona V/s State)

Date of Order : 2/12/2004

HON'BLE MR. PRAKASH TATIA, J.

Mr. Vikas Balia, for the petitioner/s
Ms. Vidhya Bora, Dy. Govt. Advocate.

Heard learned counsel for the parties.

The controversy involved in the writ petition is that whether the respondent can deny the payment of interest to the petitioner despite the fact that the Appellate Authority vide order dated 30.4.2003 allowed the appeal of the petitioner and directed the department to refund the amount deposited by the petitioner with interest in accordance with law.

It appears from the facts of the case the Deputy Commissioner (Appeals), Commercial Tax, Jodhpur allowed the appeal of the petitioner vide order dated 30.4.2003 and issued direction to refund the amount deposited by the petitioner alongwith interest as per Rules. The respondents denied the payment of interest only on the ground that they have preferred appeal to challenge the order dated 30.4.2003. However, it is admitted that there is no stay order against the order of the Appellate Authority dated 30.4.2003. It is also submitted that since the petitioner voluntarily deposited the tax amount and the amount was not recovered from the petitioner by coercive method, therefore, the department is not liable to pay interest.

I considered the submission of the learned counsel for the parties.

Section 56 read with Rule 34 of the Rajasthan Sales Tax Act itself provides that whenever it is found that the amount is refundable to the dealer under the provisions of the Sales Tax Act, such refundable amount shall carry interest as may be notified by the State Government from time to time with effect from the date of its deposit. In view of the above, there appears to be no reason for the respondents to deny the payment of interest to the petitioner.

The respondents cannot refuse to obey the direction given in the order which was passed against them after hearing merely on the ground that they have preferred appeal to challenge the order. Admittedly, no stay order has been passed against the order of the appellate court directing the payment of the interest to the petitioner.

In view of the above, the writ petition is allowed. The respondents are directed to comply with the directions issued in the Appellate order dated 30.4.2003 (Annex-P/2) and pay the interest in accordance with law to the petitioner within a period of four weeks from today.

(PRAKASH TATIA)J.

RM/